

## RESPONSE

Claims 1-2, 12-14, 18, 20-21, 24-26, 55-56, 59-68 and 71 -79 are pending. Claims 3-4, 19, 27-54, and 57-58 were previously withdrawn and claims 5-11, 15-17, 22-23, and 69 - 70 were cancelled.

Claim 55 has been amended to correct a typographical error, amending the word “with” to “within,” as was originally intended. In addition, claims 1, 55 and 72-79 have been amended to correct a typographical error, replacing “mass producing” with “mass-producing.” Claim 72 has also been amended to replace “irregular” with the more grammatically correct “irregularly.”

The Examiner indicated that the response to the final office action must include cancellation of nonelected claims. However, the applicant is filing this response with a Request for Continued Examination which reopens prosecution and therefore cancellation of the nonelected claims is not required.

The Examiner has rejected claims 55 and 56 under 35 U.S.C. 102(b) as being anticipated by Shimizu (U.S. Pat. No.4,961,966). The Applicant traverses this rejection.

Claim 55 calls for a first depression, a second depression within the first depression, and a rounded region within the second depression. A mold having a first depression, a second depression within the first depression, and a rounded region within the second depression produces an egg product which varies in thickness and it thus appears more like a natural egg. Furthermore, the yolk may be deposited into the rounded region, resulting in an egg yolk portion which is prominently displayed to more closely resemble a natural egg.

The Shimzu mold does not teach a rounded region within a second depression as called for in claim 55. Shimzu includes only one depression and a recess portion 13c within that depression. Shimzu therefore does not include both a second depression and a rounded region within that depression.

Claim 55 calls for a second depression and a rounded region within the second depression. The second depression and the rounded region are thus separate claim elements. The recess portion 13c of Shimzu cannot be both the second depression and the rounded region within the second depression, as these are separate elements. Furthermore, claim 55 calls for a relationship between the elements such that the rounded portion is *within* the second depression. It is not seen how a single recess portion 13c can be *within* a second depression.

Claims 55 and 56 have also been rejected under 35 U.S.C. 103(a) as being unpatentable over Dunckel (U.S. Pat. No. 5,427,016) taken together with any one of Davis (U.S. Pat. No. 5,293,021), Cunningham, and Shimzu (U.S. Pat. No. 4,961,966). Applicant traverses this rejection. The Applicant notes that Cunningham is not included in the list of references cited by the Examiner, and apparently the Examiner meant to indicate Glasser et al. (U.S. Pat. No. 3,941,892).

As discussed above, Shimzu does not teach a first depression, a second depression within a first depression, and a rounded region within a second depression. The other cited references also fail to teach these limitations. Each reference is discussed below.

Dunckel does not teach mold shapes.

Davis teaches a container having an egg white retention portion which encircles a central yolk retention portion, with the two portions separated by a projection. Like Shimzu, Davis fails to teach a first depression, a second depression within a first depression, and a rounded region within the second depression. The egg white retention portion and the yolk retention portion are either co-planar (Figs. 1 – 3 and 5 – 8) or the egg white retention portion is slightly elevated relative to the yolk retention portion (Fig. 4, col. 4, ll. 52-56).

Cunningham/Glasser teaches a mold which includes a flat body portion and an egg yolk cavity. This mold appears to be nearly the same as the Shimzu mold. Like Shimzu, Cunningham/Glasser teaches a single depression with an egg yolk cavity within the single depression. Therefore, for the reasons discussed above with regard to Shimzu, Cunningham/Glasser does not teach a second depression within the first depression and a rounded region within the second depression.

Therefore, none of the references, alone or in combination, teach a first depression, a second depression within the first depression, and a rounded region within the second depression. At most, the references teach a single depression containing a recess portion or cavity.

The Examiner states that it is well known to provide demarcation between yolk and white portions as taught by the cited references. However, applicant's method includes a mold which provides more than a demarcation between a yolk and white. By providing a mold having a first depression, a second depression within the first depression, and a rounded region within the second depression, the resultant egg product varies in thickness and it thus appears more like a

fried egg. In addition to varying in thickness, the yolk may be deposited into the rounded region, resulting in an egg yolk portion which is prominently displayed to more closely resemble a fried egg. The prior art does not teach or suggest varying the thickness of the product as well as providing a distinct egg yolk portion.

The Examiner has rejected claims 1, 2, 12-14, 21, 59-62, 64, 65, 67, 68 and 71 under 35 U.S.C. 103(a) as being unpatentable over Stearns et al. (U.S. Pat. No. 3,958,038) taken together with WO 87/03171. The applicant traverses this rejection.

Independent claims 1, 21, 59 and 71 have been amended to call for dropping an egg having a yolk and a white through an orifice having sharp inwardly protruding edges wherein the orifice is sized to spread the yolk to create the look of a fried egg having a broken yolk. The cited references do not teach this limitation.

Stearns et al. teach breaking egg yolks by agitating them with the whites, such as with a propeller, to form a homogeneous mix for making an omelets type product. There is no orifice identified by Stearns through which an egg is dropped. However, if an orifice is present, such as an opening through which eggs are added to the mixer, it would not be sized to spread the yolk to create the look of a fried egg having a broken yolk.

WO 87/03171 teaches a pin or equivalent for breaking a yolk, which has been separated from the egg white (p. 17, ll. 8-15). Therefore the yolk and the white are not dropped through the apparatus in WO 87/03171, and the apparatus does not provide an orifice sized to spread the yolk to create the look of a fried egg having a broken yolk.

The Examiner states that it would have been obvious to incorporate the pin of WO 87/03171 into Stearns in order to facilitate easier mixing of the yolks and whites. However, the claimed orifice provides for an egg having the look of a fried egg and therefore such mixing of the yolk and white is not desirable.

Claims 1, 2, 12-14, 18, 20, 59-68, 71-73 and 75-79 have also been rejected under 35 U.S.C. 103(a) as being unpatentable over Shimzu (U.S. Pat. No. 4,961,966) taken together with WO 87/03171 and further in view of any one of Stearns et al. (U.S. Pat. No. 3,958,038), Stier (U.S. Pat. No. 2,497,280), and Matter (U.S. Pat. No. 1,925,700). The applicant traverses this rejection.

As discussed above, Stearns and WO 87/03171 do not teach dropping an egg having a white and a yolk through an orifice having sharp inwardly protruding edges wherein the orifice is sized to spread the yolk to create the look of a fried egg having a broken yolk. The other cited references also do not teach or suggest this limitation. Shimzu, Stier, and Matter teach egg molds, but do not teach dropping an egg through an orifice having sharp inwardly protruding edges. Therefore, these references also fail to meet this limitation of the claims.

The Examiner has rejected claim 74 under 35 U.S.C. 103(a) as being unpatentable over Shimzu (U.S. Pat. No. 4,961,966) taken together with WO 87/03171 and Beale et al. (U.S. Pat. Pub. No. 2003/0047838) and further in view of any one of Stearns et al. (U.S. Pat. No. 3,958,038), Stier (U.S. Pat. No. 2,497,280), and Matter (U.S. Pat. No. 1,925,700). The applicant traverses this rejection.

Claim 74 depends from claim 71. As discussed above, neither Shimzu, WO/03171, Stearns, Stier or matter teach dropping an egg having a yolk and a white through an orifice having sharp inwardly protruding edges wherein the orifice is sized to spread the yolk to create the look of a fried egg having a broken yolk. Beale likewise does not teach this limitation.

The Examiner has rejected claims 21 and 24 – 26 under 35 U.S.C. 103(a) as being anticipated by WO 87/03171. The applicant traverses this rejection.

As discussed above, WO 87/03171 teaches a pin or equivalent for breaking a yolk, which has been separated from the egg white (p. 17, ll. 8-15). Therefore the yolk and the white are not dropped through the apparatus in WO 87/03171, and the apparatus does not provide an orifice sized to spread the yolk to create the look of a fried egg having a broken yolk as called for in claim 21.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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